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pg 011/21/03
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:

Jensen et al.

Application No.: 09/862,853

Confirmation No.: 8372

Filed: May 22, 2001

For: HINGE MEMBER PRODUCT DISPLAY
SYSTEM

Group: 3634

Examiner: Khoa H. Tran

Our File: AGI2-PT002.1

Date: November 7, 2003

APPEAL BRIEF

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Sir:

Further to the October 3, 2003 Notice of Appeal, Applicants hereby submit
this Appeal Brief.

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TABLE OF CONTENTS

ITEM	PAGE
(1) REAL PARTY IN INTEREST	3
(2) RELATED APPEALS AND INTERFERENCES	3
(3) STATUS OF CLAIMS	3
(4) STATUS OF THE AMENDMENTS	3
(5) SUMMARY OF THE INVENTION	3
(6) ISSUES	4
(7) GROUPING OF CLAIMS	4
(8) ARGUMENT	4-6
(9) CONCLUSION	7
APPENDIX A – Pending Claims	8-11

(1) REAL PARTY IN INTEREST

The real party in interest is the assignee of record, ART GUILD, INC.

(2) RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Applicant which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

(3) STATUS OF THE CLAIMS

The application, as filed, contained claims 1-17. Claims 1 and 3-6 have been rejected and are being appealed. Claims 2 and 7-9 have been withdrawn from consideration as drawn to a non-elected species; claim 1 constitutes a generic claim per the November 22, 2002 Office Action. Claims 10-17 have been cancelled.

(4) STATUS OF THE AMENDMENTS

Applicant filed a Second Reply After Final canceling claims 10-17. This amendment has been entered.

(5) SUMMARY OF THE INVENTION

The invention is directed to a novel type of display sample for a wing design product display system. The claimed display sample comprises a product sample (20) to which opposed hinge members (50) are secured. See Figure 1 and specification at ¶ [0024]. Each of the hinge members (50), have a pin (56) extending

therefrom for positioning in a respective support rail member or bracket (14, 16) of the display system. See Figures 1, 1a, 9-10 and specification at ¶¶ [0024] and [0027]. The claimed display sample is unique since the rigidity of the product sample (20) maintains upper and lower hinge members (50) in a selected spacing so they can hingedly engage within respective upper and lower display system brackets. See Figure 1 and specification at ¶ [0027].

(6) ISSUE

Are claims 1, 3, 4, and 6 obvious over Hunn (U.S. Patent No. 6,237,782) in view of Joiner (U.S. Patent No. 3,896,526)?

(7) GROUPING OF CLAIMS

For purposes of this Appeal, Applicant has treated claims 1 and 3-6 as a single group.

(8) ARGUMENT

Claims 1 and 3-4 and 6 have been rejected under 35 U.S.C. § 103(a) as being obvious over Hunn in view of Joiner as follows:

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunn in view of Joiner. Hunn discloses a display sample comprising a rigid product sample (14) having spaced-apart upper edge and lower edge portions secured by respective upper and lower hinge members (32 and 34). The upper hinge member is identical to the lower hinge member. See Figures 1 and 3. Joiner teaches a frictional hinge member (20) having first and second opposite portions (36) secure between the edge portions of product sample (21), see Figures 1 and 7, and a pin (55) dimensioned to receive in a pin

receptacle of a wing type display (58) such that the pin is extended outwardly away from the product sample edge portion. See Figures 4 and 7. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to substitute the upper and lower hinge members of Hunn with the provision of hinge members as taught by Joiner in order to frictionally clamp the product sample and allow a variable of clamping force responsive to and [in] accordance with the thickness of the product sample being held therebetween.

See June 3, 2003 Office Action at pgs. 2-3.

Independent claim 1 requires the rigidity of the product being displayed to maintain the spacing between upper and lower hinge members. In Hunn, the products being displayed are carpet samples 22 which do not function in accordance with the claims of the present invention. Item 14 of Hunn is not a product sample, but is a rigid card to which the carpet samples 22 are attached. The present invention is designed to eliminate the cards 14 disclosed in Hunn.

Items 32 and 34 of Hunn, which the Examiner cites as hinge members, are in fact spacers to prevent the product samples from becoming compressed or distorted. See Hunn at column 3, lines 4-17. These spacers have nothing to do with hinging the displayed product.

In an Examiner's Advisory Action dated August 18, 2003, the Examiner asserted that "Joiner has been applied for his teaching of a hinge member that read on applicant's claim language ...". However, Joiner does not disclose the claimed hinge members. Item 20 of Joiner is a clamp which is configured to slide into slots

defined by guide rails 24. See Joiner Figure 1. Accordingly, element 20 in Joiner cannot be considered a hinge member as claimed.

The rejection states that Joiner has "a pin (55) dimensioned to receive in a pin receptacle of a wing type display (58)". The pin element 55 of Joiner is part of a clamp actuation assembly which includes a lever 58 as clearly shown in Joiner Figures 2, 4 and 6. Pin element 55 is completely enclosed within the lever 58 which is part of the clamp 20 of Joiner and does not "extend therefrom" as a hinge pin as defined by appealed claim 1.

Applicants' claims rely upon the rigidity of a product sample to maintain the spacing between the upper and lower hinge members so that the respective upper and lower pins can be mated with the display rack for which it is intended. This concept is not disclosed or suggested in any of the references, either alone or in combination. Neither Hunn or Joiner disclose or suggest hinges having hinge pins for a wing type display. Joiner adds nothing to Hunn that would render the claimed invention obvious over the combination of references. Accordingly, this rejection should be withdrawn.


Applicant: Jensen et al.
Application No.: 09/862,853

(9) CONCLUSION

For the above reasons, Applicants respectfully submits that the presently claimed invention is patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

Jensen et al.

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CFK/RWO

APPENDIX A
(PENDING CLAIMS OF U.S. PATENT APPLICATION NO. 09/862,853)

1. (Previously amended) A display sample for a wing type display a comprising:

a rigid product sample having spaced upper and lower edge portions;

an upper hinge member secured to the upper edge portion;

the upper hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and first and second opposed portions between which the upper edge portion of the product sample is secured with the pin extending outwardly away from the product sample upper edge portion; and

a lower hinge member associated with the lower edge portion;

the lower hinge member including a pin, extending therefrom, dimensioned to be received in a pin receptacle of a wing type display, and the lower edge portion of the product associated with the lower hinge member for support with the lower member pin extending outwardly away from the product sample lower edge portion, such that the rigidity of the product sample maintains a selected spacing of the upper and lower member pins.

2. (Withdrawn) A display sample according to claim 1 wherein:

the upper hinge member includes first and second opposed clamp members and means for securing the opposed clamp members together on an upper edge of the product sample; and

the lower hinge member is secured to the lower edge portion of the product sample.

3. (Previously amended) A display sample according to claim 1 wherein the upper hinge member includes a slot for in which an upper edge of the product sample is secured and the lower hinge member includes a slot in which a lower edge of the product sample is supported

4. (Previously amended) A display sample according to claim 3 wherein the upper and lower hinge members are secured to respective edges of the product sample by a friction fit.

5. (Previously amended) A display sample according to claim 4 wherein the upper and lower hinge members are secured to respective edges of the product sample by a fastener.

6. (Previously amended) A display sample according to claim 1 wherein the upper and lower hinge members have a common construction, the upper hinge member is secured to an upper edge of the product sample and the lower hinge member is secured a lower edge of the product sample.

7. (Withdrawn) A wing type display system for displaying a plurality of display samples comprising:

opposed upper and lower bracket members mounted a selected distance apart;

a series of pin receptacles defined in the upper bracket member, each receptacle associated with a hinge point of the lower bracket;

a plurality of upper hinge members, each including a pin, extending therefrom, dimensioned to be received in any one of the pin receptacles;

each upper hinge member comprising first and second opposed portions configured to secure an upper edge portion of a rigid product sample therebetween;

a plurality of lower hinge member, each including a hinge element configured for hinge association with any one of the hinge points of the lower bracket; and

each lower hinge member configured to support a lower edge portion of a

rigid product sample whereby a display sample is configured by securing an upper hinge member to an upper edge portion of a rigid product sample and supporting a lower edge portion of the product sample with a lower hinge member such that the rigidity of the product sample maintains a selected spacing between upper and lower hinge members when the display sample is mounted for display.

8. (Withdrawn) A wing type display system according to claim 7 wherein a series of pin receptacles is defined in the lower bracket member, each receptacle corresponding to one of the hinge points of the lower bracket, and each lower hinge member including a pin, extending therefrom, dimensioned to be received in any one of the lower bracket pin receptacles, such that the rigidity of the product sample maintains a selected spacing of the upper and lower hinge member pins.

9. (Withdrawn) A wing type display system according to claim 8 wherein a plurality of display samples are configured such that an upper hinge member is secured to an upper edge of each of a plurality of product samples and a lower hinge member is secured a lower edge of each of a plurality of product samples.

10-17. (Canceled)



PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/862,853
	Filing Date	May 22, 2001
	First Named Inventor	Jensen et al.
	Art Unit	3634
	Examiner Name	Khoa H. Tran
Total Number of Pages in This Submission	Attorney Docket Number	AGI2-PT002.1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

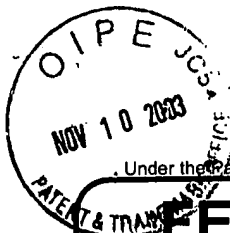
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	C. Frederick Koenig III Volpe and Koenig, P.C.
Signature	
Date	11/7/03

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Date	11/7/03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 165.00

Complete if Known

Application Number 09/862,853
Filing Date May 22, 2001
First Named Inventor Jensen et al.
Examiner Name 3634
Art Unit Khoa H. Tran
Attorney Docket No. AGI2-PT002.1

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METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

22-0493

Volpe and Koenig, P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims						
Independent Claims			X			
Multiple Dependent			X			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	165.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 165.00

SUBMITTED BY

Name (Print/Type)	C. Frederick Koenig III	Registration No. (Attorney/Agent)	29,662	Telephone	215-568-6400
Signature		Date	11/5/03		

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